

WARRICK COUNTY BOARD OF COMMISSIONERS MEETING
REGULAR SESSION
COMMISSIONERS MEETING ROOM
107 W. Locust Street, Suite 303
Boonville, Indiana
September 8, 2014
4:00 P.M.

The Warrick County Commissioners met in regular session with Don Williams, President, Richard Reid, Vice President and Marlin Weisheit, Member.

President Don Williams called the meeting to order.

Auditor Secretary, Angie Leslie, recorded the minutes.

PLEDGE OF ALLEGIANCE

AREA PLAN COMMISSION

STREET CONSTRUCTION PLANS

PP-14-10 - Caney Creek Estates Phase III by Zachery A. Knies. Owner: Steven D. & Mary J. Knies. 43.24 acres located on the N & S side of Red Barn Rd. (dead end) approximately 2000' W of the intersection formed by Rockport Rd. & Red Barn Rd. Boon Twp. Requesting no improvements be required to Red Barn Road.

Don Williams: We have a couple of Area Plan issues, Sherri, do you want to go ahead and start on those?

Sherri Rector: Yes, Sir. Both are Street Construction Plans, these are the two (2) subdivisions that was presented to you earlier in Drainage Board. The first one is Primary Plat 14-10 Caney Creek Estates Phase III by Zachery A. Knies, Owner is Steven D. & Mary J. Knies. Forty three point two four (43.24) acres located on the north and south side of Red Barn Road at the dead end approximately two thousand (2000) feet west of the intersection of Rockport Road and Red Barn Road in Boon Township. They're requesting no improvements be required to Red Barn Road which it has been signed off by our County Engineer.

Don Williams: Mr. Engineer, do you have any comment?

Bobby Howard: This is only two (2) lots on the end of a cul-de-sac so I'd recommend approval.

Don Williams: Okay, Mr. Bivens, do you have anything to say, Sir?

Bill Bivens: No, Sir.

Don Williams: Okay, any questions from the Board?

Marlin Weisheit: I have none.

Rick Reid: None.

Don Williams: I'll entertain a motion.

Marlin Weisheit: I'll make a motion to approve.

Rick Reid: Second.

Don Williams: I have a motion to approve the Street Construction Plans for PP-14-10. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

Bill Bivens: Thank you.

Don Williams: Thank you, Sir.

PP-14-11 – Dazey Acres Subdivision by Dave & Carol Dazey. 10.82 acres located on the S side of Jenner Rd. approximately 2000' W of the intersection formed by Jenner Rd. & Fuquay Rd., Ohio Twp. Requesting no improvements to Jenner Road.

Sherri Rector: The next is Primary Plat 14-11 Dazey Acre Subdivision by Dave and Carol Dazey. It's ten point eight two (10.82) acres located on the south side of Jenner Road approximately two thousand (2000) feet west of the intersection formed by Jenner and Fuquay Road in Ohio Township requesting no improvements to Jenner Road which has also been reviewed by the County Engineer.

Don Williams: Okay, do you gentlemen have anything you'd like to say, Mr. Dazey?

Dave Dazey: No.

Don Williams: Mr. Engineer, your comments please.

Bobby Howard: Again these are three (3) large lots and would recommend approval.

Don Williams: Okay, any questions from the Board?

Rick Reid: No.

Marlin Weisheit: No.

Rick Reid: I'd like to make the motion to approve PP-14-11.

Marlin Weisheit: Second.

Don Williams: I have a motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0). Thank you.

Sherri Rector: That's all I have, thank you.

Don Williams: Anything else?

Sherri Rector: No, that's it, thanks.

ITEMS FOR DISCUSSION

Debbie Bennett-Stearsman ~ BEP Program Applicants – Division 4 – Award Recipient Notice & Hearing

Don Williams: Okay, we have a couple of items for discussion, Roger, do you want to take those, Sir?

Roger Emmons: Yes, Mr. President, the first item, Debbie Bennett-Stearsman, the BLIGHT Elimination Program, Debbie is unable to attend today's meeting, she's asked that this be tabled to your next meeting. I think it would be September 15th given the lack of a quorum on the 22nd.

Don Williams: Right, we might take that next just to get it straighten out.

Roger Emmons: That's fine.

Don Williams: Okay, we have a motion to table this until our next meeting, we'll put it like that.

Rick Reid: So moved.

Marlin Weisheit: Second.

Don Williams: Motion and second to table. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3), zero (0) to table to our next meeting.

Roger Emmons: Thank you.

Don Williams: And we're going to do a little off agenda thing here; next meeting we won't have a quorum. Commissioner Weisheit and myself will be out of state and so Rick that leaves you and of course one (1) commissioner can't do it by himself, it's the law, so I would suggest that we reschedule the 22nd meeting to the 15th, move it back one (1) week which will be a week from today.

Rick Reid: So Moved.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Okay, so that meeting is moved. If you'd make necessary postings and all that for us, Roger.

Roger Emmons: I will do that.

Don Williams: Okay, thank you.

Tiffany Eckert, Peabody Energy ~ Request for 12 Months' Extension of Road Usage Agreement of 1218' of Lynnvile Road

Roger Emmons: The next item, Don, you'd stated that Ms. Eckert didn't need to be here, it's a similar request, well, it's the exact same request as last years. The Board approved the extension to the Road Usage Agreement for twelve hundred eighteen (1218) feet of Lynnvile Road last year on September the 9th, so we're right on schedule for that. The new termination date, if you approve the request, will be October the 3rd, 2015.

Don Williams: What's that date again?

Roger Emmons: October the 3rd, 2015.

Don Williams: Okay, thank you. Are there any questions from the Board?

Rick Reid: No.

Marlin Weisheit: No.

Don Williams: Mr. Engineer, you have any reason why we shouldn't do this?

Bobby Howard: No, not at this time. We have had no issues.

Don Williams: Okay, I'll entertain a motion.

Rick Reid: I'll make a motion to approve the extension of the Road Usage Agreement.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Motion carries. Thank you.

DEPARTMENTAL REPORTS

COUNTY ADMINISTRATOR

Hester Lubbehusen ~ Appeal of MedBen Claim Decision

Don Williams: You have some more, Mr. Administrator?

Roger Emmons: Yes, the next item is an appeal of MedBen claim decision by Ms. Hester Lubbehusen, she is a clerk's office employee. MedBen is our third-party administrator and I copied the Commissioners on her packet back on August the 26th. In reviewing the appeal forms I can discern that MedBen did pay the claim pursuant to the plan agreement, which because of the particular service that was used, as long as they were provided...even though it was an out of network provider, as long as they were done at an in network facility they were paid at the in network rate. So, she hadn't met her deductible at that time so she had to pay that amount but it was created to her deductible. The out of network provider that did the services, they billed three hundred and some odd dollars (\$300.00) above the usual and customary amount that was paid pursuant to the plan's negotiated prices. So, I think her appeal is for you to reverse in part, or in whole MedBen's decision which would...it goes against the policy. If you did approve it, you would go outside of the contract is would be 'X' contractual and I think you could open yourself up to some discrimination issues.

Don Williams: Okay, what are the options again?

Roger Emmons: The options...

Don Williams: To approve the denial...

Roger Emmons: Three (3) options across the board are 'denial affirmed', 'denial reversed' or 'reversed in part'.

Don Williams: Okay, any questions from the Board?

Rick Reid: Denial affirm would mean that we're not breaking with her policy?

Roger Emmons: That is correct.

Don Williams: Do we have a motion?

Rick Reid: I'll make a motion for denial affirm.

Don Williams: Do I have a second?

Marlin Weisheit: I'm going to abstain, Don. I need to abstain on that one just because...I agree with it but I need to abstain.

Don Williams: I'll second.

Marlin Weisheit: Thank you.

Don Williams: I have a motion and a second. All in favor say aye.

Rick Reid: Aye.

Don Williams: Aye. That's one (1) abstention, Sir?

Marlin Weisheit: Yes.

Roger Emmons: Thank you.

Discuss Termination of Current EMS Contract

Roger Emmons: The next item I have is to discuss the termination of the current EMS Contract. That is with St. Mary's Warrick EMS and I have drafted the letter that sites the article and section number. Should you approve the termination it will be effective 11:59PM local time on December 31, 2014 which is the termination date of the current contract. If you do not send this by September the 15th the contract automatically renews for a year.

Don Williams: For a year?

Todd Glass: That's correct, Mr. President.

Don Williams: All we're doing here is sending St. Mary's a letter to terminate the current contract until a new contract either with them or Deaconess ARM can be approved.

Roger Emmons: That is correct.

Don Williams: Any questions from the Board? If not I'll entertain a motion.

Rick Reid: I'll make a motion for the termination of the current EMS contract.

Don Williams: On its completion date.

Rick Reid: On the completion date of December 31st, 2014, 11:59PM

Marlin Weisheit: I'll second that.

Don Williams: I have motion and a second. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Motion carries.

Roger Emmons: Thank you.

Letter of Support for Warrick Wellness Pathways, Inc. Project

Roger Emmons: Next is a letter of support for Warrick Wellness Pathways, Inc. Project. I sent you a draft copy by email on August the 28th, Don had some changes he'd like to have made, I made those changes, and it's ready for the Board's action. The project is to have INDOT pay and install pavement markings and signage on the shoulder of State Road 261 between Oak Grove Road and Hunter Road for walking and biking paths, which would greatly enhance the safety of pedestrians and bicyclist.

Don Williams: Any questions from the Board? And we're not talking about them being in the traffic lane, we're actually talking on the...

Roger Emmons: What they want to do is ask INDOT to make...have a shared roadway designation for the shoulders and they're pretty wide along that stretch.

Don Williams: Okay, if there's no questions, I'll entertain a motion.

Rick Reid: So moved?

Marlin Weisheit: Second.

Don Williams: Motion and a second to approve the letter supporting Warrick Wellness Pathways. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

WCCC ~ Amendment #1 to Grant Agreement EDS # D25-14-062a

Roger Emmons: The next item I have is for the Warrick County Community Corrections Amendment #1 to their Grant Agreement EDS # D25-14-062a. JT O'Daniel is the Executive Director of the Community Corrections Program. He sent me via email the amendment, I copied the board on August 28th. This amendment is to cover the Indiana Department of Corrections Award of twenty thousand nine hundred thirty two dollars and eighteen cents (\$20,932.18) in bonus funds and eight thousand four hundred sixty four dollars (\$8,464.00) in additional grant funds.

Don Williams: That's good news.

Roger Emmons: Yes.

Don Williams: What's the will of the Board?

Marlin Weisheit: I'll make a motion to approve.

Rick Reid: Second.

Don Williams: All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3) to zero (0).

GIS Limited Use Agreement between Warrick County and EN Engineering

Roger Emmons: Thank you very much. The next item is a GIS Limited Use Agreement, that's Geographic Information Systems. It's between the County and EN Engineering that firm is currently doing design work for Vectren Gas in Warrick County. I consulted with Steve Leatherman, he's our main contact with our GIS consultant, WTH Technology, he advised that the Limited Use Agreement is recommended in this instance and you have approved one of these in the past for similar purpose.

Don Williams: Any questions from the Board?

Rick Reid: No.

Don Williams: I'll entertain a motion.

Rick Reid: Motion to approve.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Motion carries, thank you.

Don Williams: County Auditor, you have some claims?

Roger Emmons: Yes...

Don Williams: Do you have something else, Roger?

Roger Emmons: Yes I do.

Don Williams: Okay, I'm sorry.

Roger Emmons: I did have a page with some informational items in case the board wishes to cover those but if not I have the Payroll Voucher ready for the board's consideration.

Don Williams: Let me stop before we do that, Roger.

Roger Emmons: Sure.

Don Williams: Does anybody have any questions on the Blight Elimination Program? We've got a meeting coming up and things like that, I can't really do anything until October 16th so...

Roger Emmons: I am glad you brought that up Don because we do need to determine who is going to attend the training.

Don Williams: Is that the...

Roger Emmons: The list I had there is what Rayanna Binder, she stated the 1st three (3) which is the Economic Development Coalition of Southwest Indiana, myself, Todd and then Debbie suggested the County Auditor and Dixie said he'd like for Patty Mauck to attend that, she's engaged in paying the claims process.

Don Williams: And that's going to be October 16th?

Roger Emmons: Yes, October 16th at 10:00AM and later on that day there's the required public hearing.

Don Williams: What day does that fall on?

Roger Emmons: That is a Thursday. Public Hearing is at 1:00PM; training is at 10:00AM that morning.

Don Williams: The public hearing will be conducted right here I'm assuming?

Roger Emmons: Well, we're helping so if the Solid Waste Management District meeting is concluded. It would really be important so we can...

Don Williams: It starts at noon and it'll be over between probably 1:15 at the latest, they very seldom...

Rick Reid: 12:30.

Don Williams: Sometimes 12:30, sometimes its 12:30 so it depends. I will be there for sure and I don't know if the other two (2)...but we're all going to be here in the area, the hour before that, so one (1) if not all three (3) of us should be able to get there for that training.

Roger Emmons: Okay. And the last classification was basically anybody else that you think should attend the training.

Don Williams: I think Sherri certainly from Area Plan should be invited to attend for sure, Sherri Rector. If anybody can think of anything else.

Rick Reid: Does the Council want to be there?

Don Williams: County Council you could invite them if they'd like to be there. It's the loan money that's coming through.

Roger Emmons: We'll send that information to the Council. Probably...

Don Williams: It'd be good if someone could come, I think...I understand exactly what is going on because anytime you mention funds it tends to get them excited. But I can assure the President of the County Council that this will be at no expense to the County.

Rick Reid: And he's smiling.

2014 Tax Sale Certificates

Don Williams: Next item, does anyone want to talk about that? We're talking about an additional Tax Sale Certificates...?

Roger Emmons: Yeah, that would be another Commissioner Sale of Tax Sale Certificates.

Don Williams: Second one this year?

Roger Emmons: Did we have one earlier this year?

Don Williams: I thought we did.

Roger Emmons: I wouldn't think you'd want to give that thirty six (36) of them are mineral parcels, I'd defer to Todd on that but would that just leave basically forty (40) as property only?

Todd Glass: Correct, surface right properties.

Don Williams: I see no reason to go through all that and putting our Auditor through all that and the Treasurer through all that until...I think one (1) a year is plenty.

Marlin Weisheit: I agree.

Don Williams: I'm personally not interested. Are you interested in that?

Rick Reid: No, that's fine.

Don Williams: You've got our consensus not to do that.

Roger Emmons: Thank you.

COUNTY AUDITOR

Roger Emmons: The only other item I have, Mr. President, is payroll three hundred seventy four thousand five hundred forty six dollars and forty five cents (\$374,546.45).

Marlin Weisheit: Make a motion to pay the payroll.

Rick Reid: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Three (3), zero (0).

COUNTY PURCHASING

Don Williams: County Purchasing doesn't have anything today, I don't see Joe, he'd be here if he had something.

Rick Reid: Joe's over there.

Don Williams: Joe, do you have anything to relay?

Joe Grassman: No.

Marlin Weisheit: I would like if one of you guys agree to maybe have Joe take some quotes on trimming some out trees this fall.

Don Williams: Once the sap goes down?

Marlin Weisheit: Yeah, I mean, just to get a bid, I think...

Don Williams: The ones that are on the courthouse lawn?

Marlin Weisheit: The courthouse lawn, yeah, the three (3)...at least the big three (3) ones and maybe a little bit of pruning on the two (2) locust trees coming in. We have five (5) trees left but probably if we'd had this one (1) out here trimmed it might have not have went down in the big wind storm and these others are in jeopardy too, they're just getting to that size.

Don Williams: I think you have a consensus to go ahead and check out some quotes on...

Marlin Weisheit: For this fall?

Don Williams: Later on after the...

Marlin Weisheit: I know we've got a few events like the Flair on the Square and a few things there; we'd want to work around that later on in the year but...

COUNTY ATTORNEY

Approval of Subordination Agreement between Warrick County and Maken Corporation (for Sewer Work and Dedication of Pemberly Court in Pemberly Place PUD Subdivision)

Don Williams: County Attorney, you're up, Sir.

Todd Glass: Yes, Mr. President, Bobby passed on a Subordination Agreement to me several weeks ago. I've since been negotiating and in communication with attorneys for the Town of Newburgh and Maken Corporation. There's a Pemberly Place Subdivision and Newburgh owns a sewer easement and this Subordination Agreement is a Town of Newburgh agreeing to subordinate its sewer easement to allow for the dedication of Pemberly Court Street. So, we've worked this agreement out, it's been approved by the attorneys for Newburgh and Maken Corporation and the County, I would just ask approval of the commissioners to have the commissioners approve and enter into the agreement and then I'll send it on to the Town of Newburgh and Maken Corporation.

Don Williams: Okay, what's the will of the Board?

Rick Reid: So moved.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Thanks.

Todd Glass: Thank you, Mr. President that just requires the president's signature on it.

Don Williams: Make that three (3), zero (0).

Update on Leslie Road Access Rights

Todd Glass: And also Mr. Tom Norton is here along with his client, Mr. Gansman, they have an issue up on Leslie Road. I've been talking to Mr. Norton. Leslie Road actually is not a road per say, it ends about a quarter mile from Mr. Gansman's eighty (80) acres I think it...

Harold Gansman: Forty (40).

Todd Glass: Forty (40) acres, and go ahead and introduce yourself.

Harold Gansman: Harold Gansman.

Tom Norton: And I'm Tom Norton, Mr. Gansman's attorney. And as Todd has indicated...what's happened is...what's known as Leslie Road is basically become over grown with trees and shrubbery and it is the only access to Mr. Gansman's property. It's never been abandoned as right-of-way, it was approved as a right-of-way back in the 20's through the old process when county first people came and petitioned the commissioners to establish a roadway. That went through that formal process back then, there were assessment of damages at the time, it was ultimately approved by the court at that point and the thirty (30) foot roadway west of Folsomville Road called Leslie Road connected what is Mr. Gansman's forty (40) acres. It has since become overgrown, and it's his only access to the property, being the only public access he would have. He recently was attempting to clear a certain area through the roadway and some of the neighbors objected to his clearing to get back to his property. He has a cistern on that forty (40) acres that he needs to fill in and it's a little tough doing it by hand shovels and wheel barrels so what his purpose was to try to clear enough area in the road right-of-way and get back to the property to do that filling with a backhoe basically. I don't think he has any intention of doing anything more with the property other than that. Certainly no subdivision plans or anything like that, it's basically a hunting property at this point.

Harold Gansman: That cistern, it's a combination of a cistern and a well but it's big. A few years ago me and my wife, we could go back there you know and we'd try to cut some trees to throw over and stuff but we can't do that no more and the proper way to do it is to get somebody, an excavator or somebody to go open it up wide enough so they can get a backhoe back there and close that in and then we don't have to worry about coon hunters, rabbit hunters, bird hunters, turkey hunters, whatever, you know and trespassers that really don't care and it's always a worry for us anytime cause strange things happen anymore now days and that's what we want to do. We just want to go back there and...whenever we have somebody back with a backhoe they can make a parking place on my property back there so whenever I pull in off of Folsomville Road I don't have to make a bunch of noise and this and that I'd just pull all the way back there and then I can maintain my property you know when I have to do something and that's what I'm here for.

Todd Glass: Mr. President, I think, you know the county owns the right-of-way and has I think actually since 1919.

Don Williams: Its thirty (30) foot...?

Todd Glass: Thirty (30) foot, fifteen (15) foot on each property owners side but the property owners apparently are very much in objection to Mr. Gansman getting back there. So I believe the commissioners can either give Mr. Gansman permission to clear that right-of-way enough for the backhoe to get back to his property so long as it's not doing anything else to it. He's not laying gravel, he's not grading or paving it, or pass it to another meeting to allow other property owners come before you and tell you what their objections are. I think if you go ahead and give them permission to do it, perhaps you might want to consider having Roger send the other property owners a letter explaining what the county has done. Just to try to help Mr. Gansman out a little bit. He's gotten some interaction with the property owners out there and I wouldn't want any unsafe situation to develop amongst them.

Harold Gansman: I did have it surveyed all the way back to the southwest corner of my forty (40) acres, I had it surveyed right in the middle of the roadway.

Don Williams: At this time we're not getting any mileage or anything like that for maintenance or anything I'm assuming?

Bobby Howard: No, it's unmaintained and we're not getting certified mileage.

Don Williams: I guess...I'd ask counsel if we allow him to declare it, since it is in county right-of-way, and I think by law as long as it's a right-of-way you have a right to go down it. I don't think you need our permission to go down it which kind of leads to the question is how have you been getting back there? You said you and your wife go back there and you used to...how did you get back there in the past?

Harold Gansman: It's grown with poison ivy and honey suckle and everything you know, well me and my boy, we normally go back there, you know, if we wanted to look things over or something you just put on your camouflage or whatever you put on and your boots and you just tromp your way through there.

Don Williams: Okay, then in the past you walked back there?

Harold Gansman: Yeah, we have done that, yes.

Don Williams: Is that from other property or the same route...?

Harold Gansman: From Folsomville Road there and...

Don Williams: Back along the highway...?

Gansman: Now I have come in another way but this person's dead now that gave me permission to walk on it.

Don Williams: Okay, next question would be to Counsel is what would be the legal ramification if someone else going in there and clearing county property?

Todd Glass: Well, the county, you are correct...

Don Williams: It's not really...it's a right-of-way...

Todd Glass: And the county has a right to keep its right-of-way cleared and the county would have the right to authorize someone like Mr. Gansman clear it for the county if the county is not wanting to spend the money to clear it. I think you'd want some perimeters established with Mr. Gansman and understand exactly what he's going to do and if the commissioners want to be consonant of a property owners concerns going back to his property, we can either notify them of the action or postpone it and have them come in to hear exactly what you're agreeing to have them do. Either one.

Don Williams: Is there a particular date you want to do this by, Sir?

Harold Gansman: Well, I'd like to get it done before it gets winter time, you know, when it gets too soft. I'd get a excavator, somebody like Jerry Aigner or somebody like that, you know that I guess knows what they're doing, I'm sure they do, and just to make a right-of-way back through there so he could get a backhoe back there to cover that cistern up.

Don Williams: I don't know that we owe anybody anything other than send them a letter saying...

Todd Glass: Legally no.

Don Williams: This is county right-of-way, this is county owned and let them know that he has been given permission to clear that and to go back there. At the same time for liability issues I believe that I'd want a Hold Harmless Agreement to the county for...let's say if you were cutting a tree or something and it fell on you that the county would not be responsible for that, you or your son, I mean, that would be the only type of condition I think I would want. I don't know if the other two (2) commissioners...are in agreement to that?

Marlin Weisheit: My concern is, I guess we're talking about two (2) property owners that you're going to be cutting this right-of-way through and the easements on...

Harold Gansman: Well, it's a straight line, you know, the road.

Marlin Weisheit: And you've already got a legal survey to go by...

Harold Gansman: Right, right...

Marlin Weisheit: I mean, my big concern is to make sure whoever you hire to do that that they don't get off that right-of-way because I can see us all getting into a little bit of a bind there but be very careful that you don't knock trees off the right-of-way. I don't know how big the trees are. Now is this off of Taylorville Road? This is at the far end of Leslie Road isn't it?

Harold Gansman: Right, right.

Todd Glass: Where it 'T's into Folsomville.

Harold Gansman: Leslie Road runs into Taylorville Road going east and then...

Bobby Howard: It's at the far west end at Folsomville Road.

Marlin Weisheit: Okay.

Todd Glass: Mr. Norton and I in crafting a simple Hold Harmless Agreement could also fashion in that exactly what authority the Commissioners have granted them.

Marlin Weisheit: Sure, yea.

Todd Glass: To clear the way to allow access back to his property for a backhoe.

Don Williams: To make sure abutting property owners have the written documents so they understand exactly what's going on.

Todd Glass: Certainly.

Roger Emmons: Do you know how many there are?

Don Williams: Two (2).

Todd Glass: Well, no, there's two (2) or three (3) isn't there Tom, the property owners that are effected.

Tom Norton: Three (3) I think at most if I remember right from this...there's a...well, recently there was a minor subdivision on the north side of the highway or of the roadway. I believe there's two (2) owners there and on the other side there's either one (1) or two (2) so probably four (4) maximum.

Harold Gansman: Keller, he married a McReynolds girl and of course McReynolds goes back...

Don Williams: But there are only two (2) that have any objection from what I'm hearing?

Harold Gansman: Well, that's basically what it is...

Don Williams: As far as you know?

Harold Gansman: Yeah.

Todd Glass: But Mr. President we can fashion that agreement, get it signed and also get it sent to and served on the adjoining property owners before anything happens.

Don Williams: And I think probably today we could go ahead and approve the request providing the hold harmless is put in place and adjoined property owners are notified.

Todd Glass: Correct.

Don Williams: So if that's the will of the Board to do that I will entertain a motion to do so.

Rick Reid: Second.

Don Williams: I haven't made a motion, I'm asking for one.

Rick Reid: Oh, I thought you made a motion, okay, I'll make that motion...

Marlin Weisheit: I'll second.

Don Williams: Okay, a motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0). As soon as we get that right-of-way in place and get the neighbors notified...that shouldn't take too long.

Marlin Weisheit: Thanks for trying to get it right.

Don Williams: We appreciate it.

Harold Gansman: I want to do it right.

Todd Glass: Thank you, Mr. President, I didn't have anything else.

COUNTY ENGINEER/COUNTY HIGHWAY

Don Williams: Mr. Engineer, do you have anything under Engineering or Highway?

Bobby Howard: I have one (1) item, it's a carry-over from the Drainage Board meeting but I believe Mr. Hall is here from Nester Hills Road and he's here in regard to a letter that I was instructed to send him regards to road damage that occurred in front of his home and I believe he'd like address the Board.

Don Williams: Mr. Hall.

Ray Hall: I guess my question was...

Roger Emmons: Will you state you name and address for the record please?

Ray Hall: It's Ray Hall, 3069 Nester Hills, Newburgh, Indiana.

Roger Emmons: Thank you.

Don Williams: It's all yours, you've got the floor.

Ray Hall: I hired Stemaly Excavating to bring in dirt at my property back in the beginning of May somewhere around there and he hauled in fifty (50) tri-axle loads of dirt and he had damaged the public roadway there in front of my house as he was backing in over, and over, and over again on it. Basically I guess you guys had sent me a letter saying that I'm responsible for fixing that and the way I see it is I hired in a company and I believe it's their responsibility for tearing up public roadways or hitting telephone poles or whatever they do delivering dirt to my house. Plus, they carry the insurance for the, things like that and, you know, I can't be home watching his guys back in and out of my property knowing that they're tearing up the road. His drivers should know better. Also, I don't know if he overloaded his trucks, how much he was actually carrying in his trucks each time, it's not my responsibility to know that either and that could be the cause of the damage. So, basically I'm just asking what would be the reasons that you feel that I should be responsible for fixing the road.

Don Williams: You'll have to let our attorney answer that.

Todd Glass: For what I know, which is just what you just said, it would be the county's ability to place that blame on you, the property owner. It's not the county's job to keep track of what contracts you enter into and don't enter into. We don't have any relationship with a contractor. We have a relationship with the property owner.

Ray Hall: Right.

Todd Glass: Now, those facts might be absolutely correct...

Ray Hall: Well, I mean, okay, the road was in front of my property where he was delivering it but if he was coming up and down Bell Road and he damaged that road is that still my responsibility because he was delivering dirt to my house?

Todd Glass: The County has no obligation and no privity with the contractor to go after the contractor. The only connection we have is with the property owner. You have a claim against the contractor and probably, if those are the facts maybe very well would rule the day.

Ray Hall: Well, I don't know I have his...the bill that he had sent me for the work and I have the cashier check, I really don't know where to go from here if you guys are...

Todd Glass: You would probably seek legal advice on it.

Ray Hall: I talked to my lawyer about it and he said that he feels that it is Stemaly's responsibility. I also talked to some other trucking companies and they said that would one hundred percent (100%) be their responsibility if that had happened...

Todd Glass: That could be but that's a different question than what is the county's responsibility as far as seeking redress. Its real responsibility would only rest with the property owner.

Ray Hall: I guess you sent letters to Stemaly also?

Bobby Howard: Based on my last conversation with you I did forward a letter, the same letter the same letter I think that I sent you to that contracted company. He claims that he's not the only one hauling dirt and there's some other issues but I'm still going back and forth with him as well so...I mean, I'm prepared to have...if you want to try to have a meeting with your contractor at your residence to try to discuss it.

Ray Hall: It doesn't bother me either way. I guess at this point I just...I don't know if you guys are basically saying that I need to fix the road and then I need to go after Stemaly for it on my own or what needs to happen there.

Todd Glass: Possibly but you've got the County Engineer offering to have the meeting out there.

Ray Hall: Yeah, that's fine, that's fine with me if that's what he wants to do.

Bobby Howard: Like I said, I'll try to work with you the best we can but we need to have something happen fairly soon because it's been like that for a few months.

Roger Emmons: You know, this situation we really should have had a road usage agreement with Stemaly...

Bobby Howard: Right.

Roger Emmons: Then it puts it squarely on theirs. I certainly sympathize with him...

Bobby Howard: But we didn't know it was even happening until after the road was damaged so...

Ray Hall: That's another thing, when you hire a guy like that, an excavating company is it not their responsibility to get all of their permissions for hauling the dirt or is that...?

Bobby Howard: Yeah, that's why I have conversations with them as well so, like I said, I'm trying to do everything that I was instructed to do.

Ray Hall: So I just sit tight?

Todd Glass: I would suggest you take the county engineers offer up and continue to get legal advice to protect yourself if those are the facts.

Ray Hall: Okay, alright, thank you.

Don Williams: The bottom line, I'll just...not to put you at too much at ease is the road will be repaired and the county is not going to pay for it.

Ray Hall: Right.

Don Williams: Okay, just so you know.

Ray Hall: So I just wait for your phone call then?

Bobby Howard: Yeah, I'm going to try to set something up with him...

Ray Hall: Alright.

Don Williams: Thank you, Mr. Hall.

Marlin Weisheit: Thanks for staying.

COUNTY SHERIFF

Don Williams: Sheriff, do you have any business?

Sheriff Kruse: No.

COMMISSIONERS ITEMS FOR DISCUSSION

Commissioner Williams: Commissioner Reid, do you have anything?

Commissioner Reid: No.

Commissioner Williams: Commissioner Weisheit, do you have anything?

Commissioner Weisheit: Roger, we talked about Flair on the Square wanted to use that additional spot over there at the parking lot, that shouldn't be a problem...

Roger Emmons: I don't see a problem at all.

Commissioner Weisheit: I didn't know if we needed to bring it up, that's all I have.

Commissioner Williams: Anyone else have anything they'd like to say? Entertain a motion...

Roger Emmons: Mr. President, are the Commissioners going to make any statement regarding the EMS as to timing or is that not necessary?

Commissioner Williams: No, we can and...I talked to the administrative of each one but the thought is...I've looked over, we have...it may be old news to some but we have two (2) proposals for EMS Services starting January 1st I'm going to assume is the starting date. One is from Deaconess AMR and the other is from St. Mary's Warrick. And I have gone over those proposals a minimum of three (3) times and I have several questions for both parties concerning those. I don't know how the other commissioners feel but I would like to have meeting with both of those proposers this week if possible. My preference would be Thursday afternoon and I'd like to...if the other two (2) commissioners go along with it I'd like to invite...at 1:30 I'd like to have Deaconess AMR come at 1:30 and then...I don't think it'll take a whole hour but we'll leave an hour plus fifteen (15) minute overlap, and the other one which will be St. Mary's Warrick at 2:45. If you would contact both of those entities and their availability, that's one of the few times I think the three (3) of us are available so we'll have an administrative question and answer and have them present their proposals, if there's anything they want to add to their written proposal and then it would give us the opportunity, each one of us, to ask some specific questions. It would be an administrative meeting which means it's not necessarily posted but it is open to the public and that would be...Thursday would be the...

Commissioner Weisheit: The 11th.

Commissioner Williams: If you would give them calls, emails, wherever it takes to get that or maybe do an email and follow up with a call.

Roger Emmons: Do you want to do that in here or in the conference room?

Commissioner Williams: I don't really care. If we want it recorded it'd be better to do it in here just so if we want to go back over it.

Commissioner Reid: And it's public.

Commissioner Williams: Yeah, and it's public too...Yes, Mr. Keys.

Mr. Keys: Is there an option to switch those times?

Commissioner Williams: I don't necessarily have a problem switching the times I don't think.

Commissioner Reid: So 2:45 is okay with you then?

Tony O'Neal: You can move our meeting back further in the day.

Commissioner Weisheit: Does 1:30 work for you though?

Tony O'Neal: I can check, I'd have to...

Commissioner Williams: Why don't you check and see...and if we can get Mr. Keys at Deaconess AMR here at 2:45 that should give us our full hour easy and why don't you check with St. Mary's and let us know when they're available that afternoon, we'd want it to be that afternoon preferably at 1:30.

Commissioner Reid: Or at 4:00 if we have to.

Commissioner Williams: You may want to stay at 4:00, I don't, 4:00 is fine, I mean, I don't have a problem with it being at 4:00, I don't have anything else planned.

Tony O'Neal: If we can't do the 1:30 then 4:00 would work?

Commissioner Williams: Yeah, I guess it would. Are you okay with that?

Commissioner Weisheit: Sure. Whatever works for those guys, I'm available.

Commissioner Williams: I know it's really short notice and I appreciate you being here, Mr. Keys.

Commissioner Weisheit: And I want to personally thank both of them for the proposals they've put together. Everybody that's worked on the committees, there have sure been a lot of good people working on this to get it where were at and we just got a little bit further to go to decide what's best.

Commissioner Williams: I think we just send a due diligence... Okay, with that being said, does anybody else have anything? If not I entertain a motion.

Commissioner Reid: Motion to adjourn.

Commissioner Weisheit: I'll second that.

Commissioner Williams: We are adjourned, Gentlemen.

DON WILLIAMS, PRESIDENT

RICHARD A. REID, VICE PRESIDENT

MARLIN WEISHEIT, MEMBER

ATTEST:

L.B. DUGAN, AUDITOR
WARRICK COUNTY, INDIANA